

**Public Works  
CITY OF AUSTIN**

**AGENDA #25  
DATE: 4/20/2006**

**RECOMMENDATION FOR  
COUNCIL ACTION**

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**Subject:** Approve a resolution authorizing the filing of eminent domain proceedings for the P2-Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program, to acquire a 584 square foot permanent wastewater line easement out of Lot 5, Block 1, Peppertree Park Section 2, a subdivision in Austin, Travis County, Texas, in the amount of \$369. The owner of the needed property interest is Gabriel Guerrero of Austin, Texas. The property is located at 5105 Spruce Cove, Austin, Travis County, Texas.

**Amount and Source of Funding:** Funding is included in the Fiscal Year 2005-2006 Capital Budget of the Austin Water Utility.

**Fiscal Note:** A fiscal note is attached.

**Requesting Department:** PW

**For More Information:**

**Prior Council Action:**

**Boards and Commission Action:**

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The design plans for the P2-Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program, require acquisition of a permanent wastewater line easement on the property located at 5105 Spruce Cove, Austin, Travis County, Texas.

The City of Austin has attempted to purchase the permanent wastewater line easement from the land owner, and the parties have agreed on an appropriate price. However, the property title is not curable through standard processes necessitating friendly condemnation. The Law Department is requesting authorization to file an action in eminent domain on behalf of the City of Austin.



A horizontal number line is shown with tick marks at 0,  $\frac{1}{4}$ ,  $\frac{1}{2}$ ,  $\frac{3}{4}$ , and 1. The segment between  $\frac{1}{2}$  and  $\frac{3}{4}$  is shaded.

▶ CONTINUED ON PAGE 77 ▶

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CONTINUED ON PAGE 68 

Gabriel Guerrero  
to  
City of Austin  
Lot 5, Block 1,  
Peppertree Park,  
Section 2.  
(Wastewater Easement)

**FIELD NOTES FOR PARCEL 5202.02 WE**

**LEGAL DESCRIPTION OF A 0.013 ACRE (584 SQUARE FEET) TRACT OR PARCEL OF LAND, BEING OUT OF AND A PART OF LOT 5, BLOCK 1, PEPPERTREE PARK SECTION 2, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT OF RECORD FOUND IN BOOK 57, PAGE 33, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID LOT 5 HAVING BEEN CONVEYED TO GABRIEL GUERRERO BY DEED RECORDED IN DOCUMENT NO. 2004110408, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.013-ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH:**

**BEGINNING** at a calculated point at the northerly common corner of said Lot 4 and Lot 5, Block 1, of said subdivision, being in the arc of a curve to the left in the southerly right-of-way line of Spruce Cove (50-foot right-of-way), from which a 1" iron rod at the common corner of said Lot 4 and Lot 3, Block 1 of said subdivision bears N 67°29'53" W a distance of 33.53 feet, said calculated point having Texas State Plane Grid Coordinates (Texas Central Zone, NAD83/93HARN), of N = 10,045,810.40 and E = 3,112,739.67 and a combined scale factor of 1.00010 for the northwest corner and **POINT OF BEGINNING** of the herein described tract;

**THENCE**, with the curving southerly right-of-way line of said Spruce Cove, along said curve to the left having a central angle of 05°44'21", a radius of 50.00 feet, an arc length of 5.01 feet and a chord which bears S 89°57'41" E a distance of 5.01 feet to a calculated point for the northeast corner of this tract;

**THENCE** five (5.00') feet east of and parallel to the common line of said Lots 4 and 5, Block 1, S 02°54'30" W a distance of 116.39 feet to a calculated point in the northerly line of a 10-foot public utility easement as shown on said record plat, for the southeast corner of this tract;

Gabriel Guerrero  
to  
City of Austin  
Lot 5, Block 1,  
Peppertree Park,  
Section 2  
(Wastewater Easement)

THENCE twenty (20') feet north of and parallel to the south line of said Lot 5, Block 1, S 79°09'13" W along the northerly line of said 10-foot easement, a distance of 5.15 feet to a calculated point on the southerly common line between said Lots 4 and 5, Block 1, for the southwest corner of this tract, from which a 1/2" iron rod found for the southerly common corners of said Lots 4 and 5, bears S 02°54'30" E a distance of 20.59 feet;

THENCE, with the common line of said Lot 4 and 5, Block 1, N 02°54'30" E, a distance of 117.37 feet to the POINT OF BEGINNING and containing 0.013 acre of land, more or less.

**BEARING BASIS NOTE**

The bearings described herein are Texas State Plane Grid bearings (Texas Central Zone, NAD83/Harn), Combined Scale factor is 1.00010). Project Reference Control Points are two (2) cotton spindles found in Teri Road and have grid coordinates of N = 10,045,932.97, E = 3,113,096.17 and N = 10,046,017.05, E = 3,112,791.34.

I HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

Landmark Surveying, Inc.

*Dana Markus-Wolf*

Dana A. Markus-Wolf, RPLS  
1301 S Capital of Texas Highway, Bldg. B, Suite 315  
Austin, Texas 78746  
(512) 328-7411



TCAD# 03170201050000  
Austin Grid J-16

FIELD NOTES REVIEWED

By PHH Moore Date 11-30-2004  
Engineering Support Section  
Department of Public Works  
and Transportation

**SURVEY OF A PORTION OF LOT 5, BLOCK 1,  
PEPPERTREE PARK SECTION 2, CITY OF AUSTIN,  
TRAVIS COUNTY, TEXAS**



SCALE 1"=30'

**LEGEND**

- 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
- △ CALCULATED POINT (NOT ESTABLISHED ON GROUND)
- 1/2" IRON PIPE FOUND (UNLESS OTHERWISE NOTED)
- ( ) RECORD INFORMATION
- BK. BOOK
- P.O. VOLUME
- P.U.E. PUBLIC UTILITY EASEMENT
- P.R.T.C.T. Plat Records, Travis County, Texas
- D.R.T.C.T. Deed Records, Travis County, Texas
- R.P.R.T.C.T. Real Property Records, Travis County, Texas

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S79°09'13"W	5.15'
L2	S02°54'30"E	20.89'

POINT OF BEGINNING  
N 10.045,810.40  
E 3,112,739.87  
(GRID)

SPRUCE COVE  
(50' R.O.W.)

**PARCEL 5202.02 WE  
PROPOSED  
5' WASTEWATER EASEMENT  
0.013-ACRE  
(584 S.F.)**

**CURVE TABLE**

CURVE	CHORD BEARING	CHORD DISTANCE	DELTA	ARC LENGTH	RADIUS
C1	N57°29'53"W	33.83'	89°11'14"	34.20'	80.00'
C2	N59°20'48"E	38.97'	47°07'25"	41.12'	80.00'
C3	S89°57'41"E	8.01'	05°44'21"	8.01'	80.00'

**BEARING BASIS NOTE:**  
Combined Scale Factor=1.00010.  
The Basis Of Bearings for this survey is the Texas State Plane Coordinate System, Central Zone 4203, NAD83/93HARN, as provided by the City of Austin Public Works Department.

EXISTING  
WASTEWATER MANHOLE

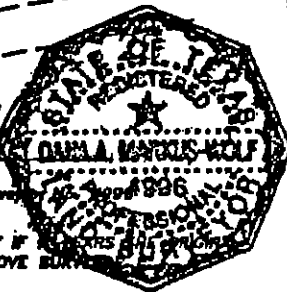
**SKETCH TO  
ACCOMPANY  
FIELD NOTES**

AS SURVEYED BY  
LANDMARK SURVEYING, INC.

*Dana Markus-Wolf*

Dana A. Markus-Wolf  
Registered Professional Land Surveyor  
DATE: November 24, 2004

THIS SURVEY PLAT IS VALID ONLY IF  
SIGNATURE AND SEAL OF THE ABOVE SURVEYOR



Client: City of Austin  
Survey: November 24, 2004  
Office: Dallas  
Crew: J. Wilson  
F.S.I.: 7/24/04  
State: TX  
Cape: 22/000/GRON CREEK BASIN/AMEZOC-grdhouse-2.dwg  
Job No.: 07-131-00-01

**RESTRICTIVE COVENANTS AND EASEMENTS**

1. Restrictive covenants for this lot are recorded in Volume 4387, Page 1454, of the Deed Records of Travis County, Texas and Volume 57, Page 33 of the Plat Records of Travis County, Texas.
2. Easement rights as set forth in that certain Declaration recorded in Volume 4387, Page 1454 of the Deed Records of Travis County, Texas DO AFFECT the subject tract.

**TITLE COMMITMENT NOTE**

All easements of which I have knowledge and those recorded easements furnished by LandAmerica Commonwealth Title of Austin, Inc. according to File No. 2518000757, are shown or depicted hereon. Other than visible easements, no unrecorded or unwritten easements which may exist are shown hereon.

**Landmark  
SURVEYING, INC.**

1301 S. CAPITAL OF TEXAS HWY.  
BUILDING B, SUITE 215  
AUSTIN, TEXAS 78746  
PH: 512/438-7511 FAX: 512/438-7512

# CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:  
WHERE ON AGENDA:  
DEPARTMENT:

04/20/06  
Resolution  
Austin Water Utility

**DESCRIPTION:**

Approve a resolution authorizing the filing of eminent domain proceedings for the P2 Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program, to acquire a 584 square foot permanent wastewater easement out of Lot 5, Block 1, Peppertree Park Section 2, Austin, Travis County, Texas, in the amount of \$369. The owner of the needed property interest is Gabriel Guerrero of Austin, Texas. The property is located at 5105 Spruce Cove, Austin, Travis County, Texas.

**FINANCIAL INFORMATION:**

Parent Project Name:	Wastewater Unfunded Future
Project Authorization:	2005-06 Approved Capital Budget
Funding Source:	Commercial Paper
Number:	4570 237 2017

Current Appropriation	\$ 575,217,293.00
Unencumbered Balance	155,739,719.80 *
Amount of This Action	<u>(369.00)</u>
Remaining Balance	<u>\$ 155,739,350.80</u>
Current Available Balance	\$ 186,596,440.91
Less Outstanding Commitments	<u>(30,858,721.11)</u>
Estimated Unencumbered Balance	<u>\$ 155,739,719.80 *</u>

Utility Finance:



David Anders, Utilities Finance Manager

Date: 3/28/06

REF. # 4570 237 8599

**RESOLUTION NO. 20060420-0**

**WHEREAS**, the City Council of the City of Austin has found that public necessity requires the City of Austin to acquire a certain real property interest for public purposes as set out below; and

**WHEREAS**, the City of Austin has attempted to purchase the needed real property interest but has been unable to agree obtain a clear title to the needed interest from the owner; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

That the City Attorney, or other authorized designee, is hereby authorized and directed to file, or cause to be filed, a suit in eminent domain on behalf of the City of Austin against the owner now having, or who may acquire, an interest in the real property interest needed by the City, described and located below, for the public purposes set out below, and to take whatever other action may be deemed appropriate to economically effect the needed acquisitions.

The City Attorney, or other authorized designee, shall file eminent domain proceedings for:

**Owner:** Gabriel Guerrero

**Project:** P2 Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program



Intended Purpose: the permanent wastewater line easement described in the attached Exhibit "A" is necessary to install, operate, maintain, repair, replace, and upgrade permanent wastewater lines and appurtenances thereto, in order to increase and improve the City's ability to provide sanitary sewer services to the public, to prevent leakage from wastewater lines, and to comply with a federal mandate.

Location: 5105 Spruce Cove, Austin, Travis County, Texas

Property: Described in the attached and incorporated Exhibit A.

ADOPTED: April 20, 2006

ATTEST: \_\_\_\_\_

Shirley A. Gentry  
City Clerk

DRAFT